



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 2, 1993

Mr. James R. Raup
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin, Texas 78701

OR93-411

Dear Mr. Raup:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 20246.

The Austin Independent School District (the "school district"), which you represent, has received a request from the Texas School for the Deaf for "the names and home addresses of all students who are currently being served in the AISD Regional Day School for the Deaf." You contend that sections 3(a)(1) and 3(a)(14) of the Open Records Act except the requested information from required public disclosure.

Section 3(a)(14) excepts from required public disclosure "student records at educational institutions funded wholly, or in part, by state revenue" V.T.C.S. art. 6252-17a, § 3(a)(14). The phrase "student records" in section 3(a)(14) generally has been construed to be the equivalent of "education records," a term used in the federal Family Educational Rights and Privacy Act, title 20 of the United States Code, section 1232g, which section 14(e) incorporates into the Open Records Act. *See generally* Attorney General Opinion H-447 (1974); Open Records Decision Nos. 539 (1990); 477 (1987); 332 (1982). Section 14(e) provides:

Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

V.T.C.S. art. 6252-17a, § 14(e). Thus, our resolution of FERPA in this instance also resolves the application of section 3(a)(14) to the requested information. FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization

20 U.S.C. § 1232g(b)(1). "Education records" are records that:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

Id. § 1232g(a)(4)(A); *see also* Open Records Decision Nos. 462 (1987) (holding that information generated by consultant to University of Houston relating to investigation of student athletes constituted "education records" within meaning of FERPA); 447 (1986). Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978).


Significantly, FERPA excepts "directory information" from the kind of educational records of a student that an educational agency or institution may not release without the consent of the student's parents. 20 U.S.C. § 1232g(a)(4)(A),(B)(1). FERPA includes in its definition of directory information:

the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

Id. § 1232g(a)(5)(A). The requested information falls within FERPA's definition of directory information. Accordingly, if the school district has complied with FERPA's posting requirements, *see id.* § 1232g(a)(5)(B), then the school district must release the requested information to the requestor. *See* Open Records Decision No. 244 (1980). Because federal law governs this matter, we do not address whether a common-law right of privacy excepts the requested information from required public disclosure under section 3(a)(1) of the Open Records Act.

Because prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,


Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee

KKO/GCK/jmn

Ref.: ID# 20246
ID# 20460

cc: Mr. Marvin B. Sallop
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